

REMARKS

Claims 1-8 are pending in the present application.

I. FORMAL MATTERS

Applicant notes with appreciation the Examiner's acknowledgement of the claim to foreign priority under 35 U.S.C. § 119(a)-(d) or (f) and indication that the certified copies of the priority documents have been received.

Applicant notes with appreciation the Examiner's inclusion of a copy of the PTO Form 1449 that was submitted with the Information Disclosure Statement filed on December 5, 2003. The references listed therein are initialed by the Examiner, thereby indicating that these references were considered by the Examiner, and should be listed on the face of any patent that issues from the present application.

The First Office Action indicates that the drawings are objected to. The Examiner asserts that Figs. 17-26 should be designated as Prior Art because only that which is old is illustrated. Figs. 17-26 are diagrams created by the inventor when the invention was made for explaining both the conventional arts and the present invention. Therefore, Figs. 17-26 are not "prior art." Thus, Applicant respectfully requests that the objection be withdrawn.

The drawings also are objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they include reference numerals not mentioned in the description. Applicant has amended page 20 of the specification to include a reference to S230, and has deleted reference numeral 14 from Fig. 10. A corrected Formal Drawing for Fig. 10 is submitted herewith. Therefore, Applicant submits that the objections to the drawings are overcome.

Figs. 27 and 28 are object to because they are not found in the application. Applicant has amended the references to Figs. 27 and 28 in the specification herein to refer to Figs. 16 and 17, respectively. Therefore, Applicant submits that this objection is overcome.

Claims 5 and 6 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant submits that this objection is improper. As stated in *Eolas Technologies Incorporated and the Regents of the University of California, vs. Microsoft Corporation*, 399 F.3d 1325 (Fed. Cir. 2005):

... The next section in Title 35, section 101, explains that an invention *1339 includes "any new and useful process, machine, manufacture or composition of matter." 35 U.S.C. § 101 (2000). **Without question, software code alone qualifies as an invention eligible for patenting under these categories**, at least as processes. ... [Emphasis added.]

... Moreover, as the district court pointed out, process and product--**software and hardware**--are practically interchangeable in the field of computer technology. ... [Emphasis added.]

Claims 5 and 6 recite "a shape processing program" including several "modules"

that achieves the useful result of imitating the shape of an object. Clearly, claims 5 and 6 are directed to software code, which is patentable subject matter under 35 U.S.C. § 101, as held by the Federal Circuit in the Eolas case, as presented above. Therefore, Applicant submits that the objection of claims 5 and 6 under 35 U.S.C. § 101 is improper and should be withdrawn.

Claims 1-7 are rejected under 35 U.S.C. § 112, first paragraph. Applicant submits that the amendments to the claims presented herein address and resolve the Examiner's objections.

II. PRIOR ART REJECTIONS

A. Claims 1, 2, 5 and 6

Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,553,206 (Meshkat). This rejection is traversed.

Applicant submits that Meshkat does not teach or suggest each and every feature of amended claims 1, 2, 3 and 5. Therefore, Applicant submits that the rejection of claims 1, 2, 5 and 6 under 35 U.S.C. § 103(a) is overcome.

B. Claims 3 and 4

Claims 3 and 4 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Meshkat in view of Applicants Admitted Prior Art (APA) (i.e., Figs. 17-26). This rejection is traversed.

As presented above, Figs. 17-26 are not prior art. Therefore, the rejection of claims 3 and 4 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Further even assuming, *arguendo*, that Figs. 17-26 are proper prior art, these figures fail to make up for the above-noted deficiencies of Meshkat. Thus, the combination of Meshkat and Figs. 17-26 fails to form the invention defined by claims 3 and 4. Thus, the rejection of claims 3 and 4 under 35 U.S.C. § 103(a) would have been improper even if Figs. 17-26 are proper prior art.

C. Claim 7

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Meshkat in view of APA and further in view of U.S. Patent Application 6,264,199 (Schaedal) and U.S. Patent Application 5,825,369 (Rossibnac). This rejection is traversed.

As presented above, Figs. 17-26 are not prior art. Therefore, the rejection of claim 7 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Further even assuming, *arguendo*, that Figs. 17-26 are proper prior art, in the chain of tetrahedrons obtained by assembling Fig. 20 of Schaedel, the same value is assigned to both of two faces sharing a side which connects tetrahedrons. Therefore, the teaching of Schaedel cannot specify the folding of the chain by the sequence of 0 and 1. Thus, Applicant submits that claim 7 would not have been obvious to one skilled in the art.

In addition, even assuming, *arguendo*, that Figs. 17-26 are proper prior art, these figures, and Schaedel and Rossibnac, fail to make up for the above-noted deficiencies of Meshkat. Thus, the combination of Meshkat, Figs. 17-26, Schaedel and Rossibnac fails to form the invention defined by claim 7. Thus, the rejection of claim 7 under 35 U.S.C. § 103(a) would have been improper even if Figs. 17-26 are proper prior art.

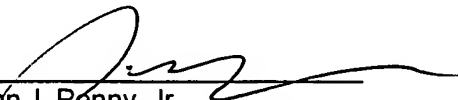
Therefore, the rejection of claim 7 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Based on the foregoing, Applicant submits that the present application is now in condition for allowance and respectfully solicits allowance of the same. If the Examiner believes that any issues could be resolved by a telephone conference, Applicant respectfully requests that the Examiner contact the undersigned at the telephone number listed below.

Applicant believes that no additional fees are due for the subject application. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. 04-1105.

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Customer No.: 21874

Respectfully submitted,

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